

DRAFT

A meeting of the New Hampshire Water Well Board was held on October 13<sup>th</sup>, 2005 at 9:30 am, in rooms 111 & 112, 29 Hazen Drive, Concord, NH, 03302.

Present were: Bart Cushing, Chairman

Rene Pelletier, Secretary

Board members: Terrell Swain, Jeffrey Tasker, Peter Caswell, and Christopher Covell.

Staff: Rick Schofield and Genevieve Al-Egaily

Chairman Cushing brought the meeting to order at 9:33.

**Approval of Minutes**

Upon motion by Mr. Swain and seconded by Mr. Caswell, the Board unanimously voted to accept the corrected Minutes of the August 4<sup>th</sup>, 2005 meeting.

**Valley Artesian Well Company Inc.-Proposed Settlement**

Mr. Schofield reported that Valley Artesian Well Company Co Inc ("Valley") through its attorney David Cole had submitted a proposed settlement for the Board's consideration as an alternative to a continuance of the license suspension hearing, which was continued at the last meeting. Mr. Schofield further explained that DES would respond to the proposed settlement independently of the Board because of the separate jurisdictions. DES had agreed with Valley to issue an Administrative Fine by Consent for the late reports with 60 percent of the fine suspended contingent on no additional late reports for one year. Valley had consented to pay the remaining 40 percent of the fine.

Valley also agreed to a continuance of its probationary status with the Board from June 4, 2005 through June 4, 2006.

Some members of the Board expressed their disappointment that DES (the program) had agreed to a one year period with no further violations rather than a two year period which was considered standard.

The Board also discussed Valley's proposal to submit GPS coordinates in lieu of 911 addresses to prevent further late reporting. The membership reviewed some of the reports recently submitted by Valley with GPS coordinates. The Mr. Schofield suggested that the Board not accept this part of Valley's proposed settlement because reports without a physical address are useless to the general public.

The Board concluded that the use of GPS coordinates for location information, by themselves, would not be acceptable. The road name in conjunction with the street number, or tax map and parcel number, or subdivision lot number would continue to be required.

Mr. Covell made a motion to place Valley Artesian Well Company on probation for two-years for filing late reports. The motion was not seconded. Upon motion by Mr. Swain and seconded by Mr. Covell, the Board voted unanimously to place Valley Artesian Well Company Inc on probation for two years starting October 15, 2005 through October 15, 2007 for failure to submit well completion reports and failure to submit complete and accurate reports. If Valley Artesian Well Company Inc fails to submit complete and accurate reports, a hearing will be scheduled for license revocation.

### **K Beebe Inc. Letter of July 28, 2005**

Mr. Schofield reported that Mr. Beebe had sent a letter to the Board prior to the August 4th meeting in response to the Board's request that he appeared at the August 4th meeting. He had also included an additional well completion report. The well completion report had been received by the Board, but he had not received the letter until after the meeting because the letter had been mistakenly delivered to Mr. Mackey. After being notified of the Notice of Decision and Order suspending his license, Mr. Beebe did not request a re-hearing or request for reconsideration to have his license reinstated. Mr. Schofield suggested that since Mr. Beebe had responded to the Board's request to appear, and there was new evidence which was not available at the August 4th meeting, the Board could vote to lift Mr. Beebe's license suspension.

Chairman Cushing pointed out that the date on the well completion report did not match the date stated in Mr. Beebe's letter. The Board then considered requesting Mr. Beebe to attend the next meeting.

Upon motion by Mr. Pelletier and seconded by Mr. Covell the Board voted by majority to lift the suspension of Mr. Beebe's license.

### **Reporting**

#### **Western Maine Water Wells Inc.**

Mr. Schofield reported that he had received a letter from Mr. Champney's attorney Jean Walsh requesting a continuance until the next meeting to give Mr. Champney time to retain representation in New Hampshire. The continuance had been granted by Mr. Pelletier prior to the meeting after consulting with legal counsel. Chairman Cushing requested that no additional continuances be granted. He also requested that Mr. Champney be requested to bring his records to the next meeting to clarify his reporting.

#### **Fowler Well Drilling-Luke Fowler**

Mr. Schofield reported that Mr. Fowler had not been able to stay during the last meeting and had asked and been granted a continuance. Mr. Fowler had a cable tool machine and did not drill many wells. However, he was aware of at least one well drilled by Mr. Fowler during the last year and the report had not been filed. Mr. Schofield stated that he had sent Mr. Fowler a certified letter to appear at this meeting. However, he had not received the green card back indicating that Mr. Fowler had received the letter.

The Board instructed staff to send Mr. Fowler a letter both certified and first class mail requesting his attendance at the next meeting.

A & W Artesian Well Company and McKenna Well Drilling Inc.

Chairman Cushing explained that during the yearly review of reporting the Board noted what they felt might have been some discrepancy in the reporting of McKenna Well Drilling Inc., A & W Artesian Well Company, and a Company from Maine, all of which were affiliated companies. After reviewing the previous years reporting it appeared that some of the reports might have been filed under the wrong license number. The Board had requested clarification on which of the companies had drilled each of the wells.

Mr. Schofield reported that he had received a letter along with 14 well completion reports that were being filed by McKenna Well Drilling Inc. The reports were complete except for some of the required location information. The letter had requested assistance from Mr. Schofield in obtaining the location information from Mr. Jeffrey Bemis. The wells had been drilled by Mr. Bruce Follett of McKenna Well Drilling Inc. acting as an independent subcontractor for Mr. Bemis.

Chairman Cushing called Mr. Follett to the table.

Mr. Follett explained that he had not been able to get the information from Mr. Bemis, which was why he had requested help from DES.

The Board informed Mr. Follett that as the license holder and qualified individual for McKenna Well Drilling Inc., the well completion reports were his responsibility.

**Complaints**

Nancy Randlov / Fowler Well Drilling

Mr. Schofield reported that the Randlovs were unable to attend the meeting for health reasons. However, they wished to have the case continue without them. Mrs. Randlov had said that Mr. Fowler had taken two to three months to drill a 50 foot well. When he had finished the well it would run dry, the horse refused to drink the water, there was sediment in the water, and the water smelled. She stated that she had paid \$4200 for the well and did not feel as if she had been treated in a professional manner. The well completion report had not been filed for this well so the 50 foot depth had not been verified. A new well had been drilled by Capital Well Company 73 feet from the old well. The new well was 420 feet deep with 130 feet of casing and was drilled through 118 feet of glacial till before hitting bedrock. Mr. Schofield visited the site and found several violations with the Fowler well. The well pump was not grounded to the casing, the well was likely finished in glacial till, and no report had been filed. Mr. Fowler sent a letter of response stating that he had not been given enough time to drill a good well and would not have taken the job if he had known that time was an issue. This was the first consumer complaint received against Fowler Well Drilling. However, there had been problems with his reporting in the past.

Mr. Swain recused himself because he had done work on the site.

Mr. Tasker stated that Mr. Fowler have been given adequate time to drill the well and he had seen other wells drilled by Fowler Well Drilling that had been drilled in glacial till.

The Board concluded that a letter be sent to Mr. Fowler, both certified mail and regular mail, requiring that he or his representative appear before the Board at the next meeting.

Everett / Riley's Plumbing & Heating

Mr. Schofield reported that he had received a complaint from Carol Everett. She had hired Riley Plumbing and Heating Inc to replace her well pump. After the work had been done, the water was a "chocolate" color. She also claimed the Mr. Riley had turned the bypass on the filter system allowing the chlorinated water to go through the water softener. She did not feel that she had received adequate information on the problems that could arise from the work that she was having done or how to deal with them if they did. She wanted to know why proper instructions had not been provided prior to or after the pump installation and if it would have been possible to purge the water until it was clear. She also wanted to know what the probability was of this problem occurring and if she should have had the expectation that she would have potable water within a reasonable length of time after the work had been completed. Mr. Schofield suggested that the Board consider writing a notice that could be given to consumers explaining well disinfection procedures. Mr. Riley submitted a letter of response stating that he had informed Mr. Hein that the system had been chlorinated and that it needed to sit for four hours before being flushed.

The Board noted that Mr. Riley had called Ms. Everett back on two occasions after the problems had arisen and that problems with iron and manganese were common in wells in Bedford. Mr. Tasker also noted that wells in that area tended to be low yielding, which could create additional problems when trying to flush the well.

Chairman Cushing called Carol Everett and Dick Hein to the table.

Ms. Everett stated that it had taken more than two weeks for the water to clear up and asked the Board if the water could have damaged equipment in her home. She also asked if the water could have been run clear before it came into the house, if this was normal, and why she had not been given proper notice about the potential problems that could arise and how to deal with them if they did.

Mr. Hein stated that work had been done on the pump years earlier and they had not had any problems. He also stated that Mr. Riley had told him to run the water into the bathtub until it was clear. He felt that the instructions should have been in writing as Mr. Schofield had suggested.

The Board informed Ms. Everett that this type of problem was more common in older wells because minerals tended to accumulate over time.

Chairman Cushing called Mr. Riley to the table.

Mr. Riley stated that after he had replaced Ms. Everett's pump he received a call from her complaining that the water was not usable. However, she said that she could wait until the morning to have something done about it. In the morning, she was not there so he had spoken with Mr. Hein and told him to run the water through a garden hose for two to four hours then stop and wait two to three hours before running the water through the garden hose again. He stated that he had let the water run over the casing for two to three minutes as he normally did and as had been discussed in the Continuing Education class. He stated that after he had replaced the pump he had explained to Mr. Hein that the well had been chlorinated and that he needed to wait four hours before he flushed the well. Then the well could be flushed by running the water through the garden hose or by running the water into the bathtub but not to run the water through the fixtures until it was clear. He stated that he had opened the stop and waste on the water softener so that the chlorinated water would not go through the filter system.

The Board determined that there were no code, or ethical, violations. Upon motion by Mr. Swain and seconded by Mr. Pelletier the Board voted unanimously to dismiss the complaint.

Sweatt / Digger Day's Artesian Well Co.

Mr. Schofield reported that he had received a complaint from Mr. George Sweatt against Digger Day's Artesian Well Company. The complaint stated that the invoice received from Digger Day's Artesian Well Company stated that the pump had been set at 360 feet. However, Mr. Sweatt had been having problems with his well and a sonar device had indicated that the pump was set at 270 feet, not 360 feet. The complaint had been filed so that a DES staff member could witness the pump being pulled. Mr. Schofield reported that he had gone to the site and the sonar had been incorrect. The pump had actually been set at 368 feet. Eight feet deeper than the invoice had stated. Therefore, the complaint by Mr. Sweatt against Digger Day's Artesian Well Company had been withdrawn.

Crawford / McDonald Well & Pump

Mr. Schofield reported that he received a complaint from Janie & Kevin Crawford against McDonald Well & Pump. The Crawford's stated that Mr. Dobrowolski had become upset by and the condition of the site and had cut the offset line inside the foundation, the waterline five feet from the casing, and the electrical line before he left the job site. The trench had to be re-dug for the job to be completed and Comac had been hired to complete the job. McDonald Well & Pump responded to the complaint stating that all of the equipment that they had taken belonged to them.

Chairman Cushing called the Crawford's to the table.

Janie Crawford stated that this was a spec house located in Raymond. Kevin Crawford stated that Jack McDonald had worked for them before. However, when he called McDonald Well & Pump to install the lines, they were unable to come but said that we could come and pick up the lines. Steve Bartlett of Kingston construction installed the lines. However, the electrical line inside was short. When Mike and Kelly Dobrowolski came to install the pump and expansion tank, Mike became very upset because he could not get close enough to the well. He removed the tank, cut the lines flush with the foundation, and did not plug the hole he left in the well casing for the pitless adaptor.

Chairman Cushing called the representatives from McDonald Well & Pump to the table.

Michael Dobrowolski stated that when they had come to pickup the pipe he had explained that they needed to leave five feet on both the insides and outside. When he arrived at the site, he found that this had not been done and he could not get within five feet of the well, which he needed to be able to do, to install the pump. The electrical line had been cut five feet short at the well and only eight inches of pipe was left sticking out inside of the foundation. He admitted that he had cut the water and electrical lines flush with the foundation, drilled out the casing and had forgotten to plug the casing because he had become upset with the condition of the site. He also stated that the tank had not been installed yet when they removed it and he had removed all of their equipment because he felt that they would not be paid for the job.

Kelly Dobrowolski stated that the expansion tank had not been installed before it had been removed because they had only been at the site for approximately 10 minutes, which was not long enough for her to complete the work. She also explained that when they had returned home they had a message from the Raymond Police Department. They had also received a message from Mr. Crawford apologizing if he had offended anyone. However, they decided to contact the Raymond Police Department to find out about the complaint that had been filed against them before contacting Mr. Crawford. Comac had been hired and was on the site within twelve hours, which did not give them time to resolve the situation.

Jack McDonald stated that there had not been a written contract with Crawford Building / Electrical. However, he would have liked the opportunity to rectify the situation.

The Board then offered the two parties the opportunity to come to an agreement before the Board made any rulings on the complaint.

Chairman Cushing reported that an agreement between the Crawfords and McDonald Well and Pump had been reached. The Board informed Mr. Dobrowolski that as a representative of the industry he was held to a higher standard than the public and he could not continue to lose his temper. A letter of reprimand was to be sent to McDonald Well and Pump regarding the conduct of Mr. Dobrowolski. However, since Mr. McDonald was the qualified individual for the company, the Board decided not to take formal action against his firm for misconduct in industry. Upon motion by Mr. Pelletier and seconded by Mr. Covell the Board unanimously passed the motion to dismiss the complaint.

### **Previous Complaints**

#### **Fred D'Amore / Woodsome Well Drilling Inc.**

Mr. Schofield reported on the status of the complaint that the Board had referred to DES for administrative action. The matter was ongoing. A Notice of Decision and Order had been sent and the Board had ordered the decommissioning of the old well, which had been completed. A water quality test on the new well had been done and the results had been given to the owner. DES had received a copy of the Hydro-fracturing report and a copy of the invoice had been

provided to Mr. D'Amore. Mr. Schofield reported that Mr. D'Amore was very happy with the new well and thanked the Board for their action on his behalf.

The complaint was closed.

Request for Rulemaking-John E. Dutra

Mr. Schofield reported that Mr. Dutra had purchased a house and was told that the well produced two gallons per minute, which is what the well completion report states. The report stated that the well had produced 0.1 gallons per minute before Hydro-fracturing and two gallons per minute after. However, the well does not produce two gallons per minute.

Chairman Cushing called Mr. Dutra to the table.

He stated that he had purchased the house in January of 2004 and he did not realize until June that there was a problem with the well. The well had gone dry when he tried to water his lawn and the pump had burned out. He stated that he had estimated that he had a yield of 0.5 gallons per minute. However, after the pump burned out the yield was determined by the use of sonar to be 0.2 gallons per minute. Mr. Dutra requested that the Board implement regulations to protect the public and to ensure that the information provided on the well completion reports was accurate.

Mr. Covell agreed that there should be rules regarding the reporting of yield after hydro-fracturing and that the Board consider drafting rules for Hydro-fracturing to be present at a later meeting. The Board then tabled the discussion.

**Licensing**

Old Business

Mr. Schofield handed Mr. Bemis a Cease and Desist Order.

Mr. Schofield then reported that since the last meeting Mr. Bemis had submitted a new application and had changed his work experience to reflect that he had been employed by A&W Artesian Well Company rather than Quality Pump and Filter upon the advice of Mr. Mackey. On August 12, Mr. Bemis passed the rotary, pump installer, and general exams.

After receiving information on September 22nd that Mr. Bemis was drilling under the McKenna named in New Ipswich, Mr. Schofield responded and found Mr. Bemis drilling at 186 Green Farm Road in New Ipswich. The name on the drill rig was McKenna Water Systems, an unlicensed business. Mr. Bemis implied that he was drilling under McKenna Well Drilling's license, however, upon further investigation that was found to be incorrect. An Administrative Order was issued on September 29 requiring Mr. Bemis to cease and desist from drilling wells or installing pumps without a license.

Chairman Cushing called Jeffrey Bemis to the table.

Mr. Bemis stated that he had not thought about a license until after he had drilled two wells and had started filling out the well completion reports. He then spoke to John McKenna and was told not to worry about the license. He stated that he had been negotiating to purchase McKenna Well Drilling and the deal had fallen through at the last minute. He was now going by Bemis Group LLC with the trade name of McKenna Geothermal.

The Board requested that Mr. Bemis help Mr. Follett with the missing address information from the well completion reports filed by McKenna Well Drilling. Mr. Bemis agreed to help. The Board also requested that he explain the experience he had with well drilling that he had listed on his application.

The Chairman invited Allan Follett and Bruce Follett to the table to answer questions of the Board. Mr. Follett said that Mr. Bemis worked for Quality Pump and Filter and McKenna Well Drilling but hadn't drilled any wells for him.

The Board reviewed the application and discussed four references attached to the application which indicated that Mr. Bemis was qualified.

The Board was concerned that if they granted Mr. Bemis a license he would continue to use the name McKenna Water Systems. The Board had recently considered an issue regarding three well companies with variations of the name Gap Mtn and was concerned about the likelihood of confusion being caused with the consuming public.

Mr. Pelletier addressed Mr. Bemis stating, If the Board grants the license, the license will be issued to Bemis Group, LLC as stated on the application. If you are out there working as McKenna Water Systems, you're operating without a license. "Do you understand that?"

Mr. Bemis responded, "Yes."

There was further discussion about applying conditions on the license stipulating that Mr. Bemis could not change the name or corporation at a later date. Some of the members did not want to impose restrictions on Mr. Bemis as the program had allowed other licensees to change their company names in the past.

Mr. Pelletier made a motion, which was seconded by Mr. Tasker, the Board votes on the application before it as Bemis Group, LLC with no stipulations. If Mr. Bemis chooses, at some future time, to change names or change corporations, the Board will deal with that application if that takes place. The motion carried.

The Chairman called for a vote on whether to issue a pump installer license to Bemis Group, LLC.

The Board voted, by majority, to grant the license.

The Chairman called for a vote on whether to issue a water well contractor license to Bemis Group, LLC.

The Board voted, by majority, to grant the license.



New Applicants

Mr. Schofield reported that there were five new applicants.

The Board determined that Stephen Sontag did not have the experience to sit for the exam. The Board voted to allow James Ferrante and Patrick Keating to sit for the exams.

Trade Names

Mr. Schofield reported that DES compliance attorney Kerry Barnsley found that nine of the fifteen businesses that had appeared before the Board at the August 4<sup>th</sup> meeting were not registered to conduct business in the state. He also felt that the Board should not issue licenses to trade names because they were not legal entities. Mr. Schofield stated that the license applications had been changed and now required that a business be registered before a license could be issued. However, some businesses were allowing their registration to laps after receiving their license.

Secretary Pelletier suggested that staff conduct a database query to determine which businesses were not registered and send a letter to the Secretary of State informing him of the status of these businesses. The letter was to be CC to Guy Patell at the Treasury.

**2004 & 2005 License Revenue / Personnel Expenses**

Mr. Schofield reported that the program's revenue receipts, for the fiscal years 7/1/03-6/30/04 and 7/1/04-6/30/05, did not cover the program expenses. The revenue did cover the personnel expenses but fell short when Class 20 expenditures were added to the program costs. Revenue from Pump Installers Licenses dropped 35 percent since the continuing education requirement was implemented in 1998.

**FYI**Private Drinking Well Symposium

Mr. Schofield reported that the Private Drinking Well Symposium would be held at the Sheraton Harbor Side in Portsmouth, NH on November 14. Bernie Lucy would be the speaker.

Aquapex

Mr. Schofield requested that the Board determine if continuing education credits could be given for a Wirsbo - Aquapex presentation. The Board approved the training.

The meeting was adjourned.